



January 14, 2005

HOUSE BILL No. 1169

DIGEST OF HB 1169 (Updated January 12, 2005 6:06 pm - DI 73)

Citations Affected: IC 36-7.

Synopsis: Excluded cities and towns and zoning. Provides that an excluded city or town in Marion County may initiate a proposal to amend or partially repeal the zoning ordinance with regard to the development, maintenance, and use of real property located within the corporate boundaries of the city or town. Requires the metropolitan development commission to certify the proposal to the city-county council with a favorable recommendation if the proposal meets certain requirements. Requires the city-county council to approve the proposal as certified if the city-county council finds that the proposal meets the requirements.

Effective: July 1, 2005.

Hinkle

January 6, 2005, read first time and referred to Committee on Local Government.
January 13, 2005, reported — Do Pass.

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HB 1169—LS 6725/DI 87+



January 14, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1169

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-7-4-602 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 602. (a) The following
3 procedure applies to a proposal to adopt an initial zoning ordinance (or
4 to adopt a replacement zoning ordinance after repealing the entire
5 zoning ordinance, including amendments and zone maps) for a
6 jurisdiction:
7 (1) The plan commission must initiate the proposal.
8 (2) The plan commission must prepare the proposal so that it is
9 consistent with section 601 of this chapter.
10 (3) The plan commission and the legislative body both must
11 comply with section 603 of this chapter.
12 (4) The plan commission must give notice and hold a public
13 hearing under section 604 of this chapter.
14 (5) The plan commission must certify the proposal to the
15 legislative body under section 605 of this chapter.
16 (6) The legislative body must consider the proposal under section
17 606 of this chapter, and section 606 governs whether the proposal

HB 1169—LS 6725/DI 87+



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is adopted or defeated.

(7) If the proposal is adopted under section 606 of this chapter, the plan commission must print (and publish, if required) the ordinance under section 610 of this chapter.

(8) The ordinance takes effect as described in section 610 of this chapter.

(b) After the zoning ordinance for a jurisdiction has been adopted as described in subsection (a), the following procedure applies to a proposal to amend or partially repeal the text (not zone maps) of the ordinance:

(1) The plan commission may initiate the proposal. (Under the advisory planning law or the area planning law, any participating legislative body also may initiate the proposal and require the plan commission to prepare it.) **(Under the metropolitan planning law, an excluded city or town may also initiate the proposal under section 605(c) of this chapter and require the plan commission to prepare it.)**

(2) The plan commission must prepare the proposal so that it is consistent with section 601 of this chapter.

(3) The plan commission and the legislative body both must comply with section 603 of this chapter.

(4) The plan commission must give notice and hold a public hearing under section 604 of this chapter.

(5) The plan commission must certify the proposal to the legislative body under section 605 of this chapter.

(6) The legislative body must consider the proposal under section 607 of this chapter, and section 607 governs whether the proposal is adopted or defeated.

(7) If the proposal is adopted under section 607 of this chapter, the plan commission must print the amendments to the zoning ordinance under section 610 of this chapter.

(8) The amendments take effect as described in section 610 of this chapter.

(c) After the zoning ordinance for a jurisdiction has been adopted as described in subsection (a), the following procedure applies to a proposal to change the zone maps (whether by incorporating an additional map or by amending or deleting a map) incorporated by reference into the ordinance:

(1) The proposal may be initiated either:

(A) by the plan commission; or

(B) by a petition signed by property owners who own at least fifty percent (50%) of the land involved.

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(Under the advisory planning law or the area planning law, any participating legislative body also may initiate the proposal and require the plan commission to prepare it.)

(2) The plan commission or petitioners must prepare the proposal so that it is consistent with section 601 of this chapter.

(3) The plan commission and the legislative body both must comply with section 603 of this chapter.

(4) The plan commission must give notice and hold a public hearing under section 604 of this chapter.

(5) The plan commission must certify the proposal to the legislative body under section 605 of this chapter.

(6) The legislative body must consider the proposal under section 608 of this chapter, and section 608 governs whether the proposal is adopted or defeated.

(7) If the proposal is adopted under section 608 of this chapter, the plan commission must update the zone maps that it keeps available under section 610 of this chapter.

(8) The zone map changes take effect as described in section 610 of this chapter.

SECTION 2. IC 36-7-4-605 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 605. (a) ADVISORY—AREA. A proposed zoning ordinance shall be certified to each participating legislative body by the plan commission as follows:

(1) If the proposal is to adopt an initial zoning ordinance (or to adopt a replacement zoning ordinance after repealing the entire zoning ordinance, including amendments and zone maps) under section 606 of this chapter, it may be certified only if it receives a favorable recommendation from the commission.

(2) If the proposal is to amend or partially repeal the text (not zone maps) of the ordinance under section 607 of this chapter, it may be certified with a favorable recommendation, an unfavorable recommendation, or no recommendation from the commission.

(3) If the proposal is to change the zone maps incorporated by reference into the ordinance under section 608 of this chapter, it may be certified with a favorable recommendation, an unfavorable recommendation, or no recommendation from the commission.

(b) METRO. A proposal shall be certified to the legislative body by the metropolitan development commission only if it receives a favorable recommendation from the commission.

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(c) METRO. This subsection applies if the legislative body of an excluded city or town proposes to amend or partially repeal the text (not zone maps) of the zoning ordinance. The metropolitan development commission shall give the proposal a favorable recommendation and certify the proposal to the legislative body if the commission finds that the proposal:

(1) affects only real or personal property within the corporate boundaries of the excluded city or town that submits the proposal;

(2) amends or partially repeals the zoning ordinance only with regard to matters contained in section 601(d)(2);

(3) includes requirements more stringent or standards higher than those of the existing zoning ordinance; and

(4) is consistent with the comprehensive plan and zone maps.

(d) The legislative body shall consider the recommendation (if any) of the commission before acting on the proposal under section 606, 607, or 608 of this chapter.

SECTION 3. IC 36-7-4-607 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 607. (a) This section applies to a proposal, as described in section 602(b) of this chapter, to amend or partially repeal the text (not zone maps) of the zoning ordinance.

(b) ADVISORY—AREA. If the proposal is initiated by a participating legislative body instead of the plan commission, the proposal must be referred to the commission for consideration and recommendation before any final action is taken by the legislative body.

(c) On receiving or initiating the proposal, the commission shall, within sixty (60) days, hold a public hearing in accordance with section 604 of this chapter. Within ten (10) business days after the commission determines its recommendation (if any), the commission shall certify the proposal under section 605 of this chapter.

(d) The legislative body shall vote on the proposal within ninety (90) days after the plan commission certifies the proposal under section 605 of this chapter.

(e) This subsection applies if the proposal receives a favorable recommendation from the plan commission:

(1) At the first regular meeting of the legislative body after the proposal is certified under section 605 of this chapter (or at any subsequent meeting within the ninety (90) day period), the legislative body may adopt, reject, or amend the proposal. The legislative body shall give notice under IC 5-14-1.5-5 of its

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intention to consider the proposal at that meeting.

(2) If the legislative body adopts (as certified) the proposal, it takes effect as other ordinances of the legislative body.

(3) If the legislative body fails to act on the proposal within ninety (90) days after certification, it takes effect as if it had been adopted (as certified) ninety (90) days after certification.

(4) If the legislative body rejects or amends the proposal, it shall be returned to the plan commission for its consideration, with a written statement of the reasons for the rejection or amendment. The commission has forty-five (45) days in which to consider the rejection or amendment and report to the legislative body as follows:

(A) If the commission approves the amendment or fails to act within the forty-five (45) day period, the ordinance stands as passed by the legislative body as of the date of the filing of the commission's report of approval with the legislative body or the end of the forty-five (45) day period.

(B) If the commission disapproves the rejection or amendment, the action of the legislative body on the original rejection or amendment stands only if confirmed by another vote of the legislative body within forty-five (45) days after the commission certifies its disapproval. If the legislative body fails to confirm its action under this clause, the ordinance takes effect in the manner provided in subdivision (3).

(f) **ADVISORY—AREA.** This subsection applies if the proposal receives either an unfavorable recommendation or no recommendation from the plan commission:

(1) At the first regular meeting of the legislative body after the proposal is certified under section 605 of this chapter (or at any subsequent meeting within the ninety (90) day period), the legislative body may adopt, reject, or amend the proposal. The legislative body shall give notice under IC 5-14-1.5-5 of its intention to consider the proposal at that meeting.

(2) If the legislative body adopts (as certified) the proposal, it takes effect as other ordinances of the legislative body.

(3) If the legislative body rejects the proposal or fails to act on it within ninety (90) days after certification, it is defeated.

(4) If the legislative body amends the proposal, it shall be returned to the plan commission for its consideration, with a written statement of the reasons for the amendment. The commission has forty-five (45) days in which to consider the amendment and report to the legislative body as follows:

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(A) If the commission approves the amendment or fails to act within the forty-five (45) day period, the ordinance stands as passed by the legislative body as of the date of the filing of the commission's report of approval with the legislative body or the end of the forty-five (45) day period.

(B) If the commission disapproves the amendment, the action of the legislative body on the original amendment stands only if confirmed by another vote of the legislative body within forty-five (45) days after the commission certifies its disapproval. If the legislative body fails to confirm its action under this clause, the ordinance is defeated as provided in subdivision (3).

(g) METRO. This subsection applies if the legislative body of an excluded city or town proposes to amend or partially repeal the text (not zone maps) of the zoning ordinance. The legislative body shall approve the proposal, as certified by the metropolitan development commission, if the legislative body finds that the proposal:

- (1) affects only real or personal property within the corporate boundaries of the excluded city or town that submits the proposal;**
- (2) amends or partially repeals the zoning ordinance only with regard to matters contained in section 601(d)(2);**
- (3) includes requirements more stringent or standards higher than those of the existing zoning ordinance; and**
- (4) is consistent with the comprehensive plan and zone maps.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1169, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

HINKLE, Chair

Committee Vote: yeas 8, nays 2.

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HB 1169—LS 6725/DI 87+

